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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,730	11/02/2001	Kevin A. Seiling	01-180	2670

7590 07/13/2004

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EXAMINER

KUHNS, ALLAN R

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/001,730	SEILING ET AL.	
	Examiner	Art Unit	
	Allan Kuhns	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-28 is/are pending in the application.
- 4a) Of the above claim(s) 6-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 18-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1.Applicant's election without traverse of Group I in the reply filed on April 22, 2004 is acknowledged.

2.Claims 6-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 22, 2004.

3.Claims 25-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are indefinite because they are "product" claims depending from a "composition" claim. Clarification is required.

4.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5.Claims 1-3, 5 and 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO00/03859 (Nomura et al. will be used as a translation/English equivalent of the document relied upon). Nomura et al. disclose or suggest the basic claimed composition including a polymer material selected from the group consisting of polyvinyl chloride, polyethylene and polypropylene in a concentration of 82-99% by weight of the mixture and glass fibers that are embedded in the polymer material, the glass fibers having a fiber length in the range of 50 to 900 microns (column 4, lines 5-7) and being in an amount of 1-18% by weight of the composition (column 3, lines 63-64). The examiner takes Official Notice that it is known to form such a composition (or

subsequent product) having internal closed cells and the cited reference in fact employs a foaming agent which is known to produce such cells.

Nomura et al. also disclose the use of polyvinyl chloride (column 11, line 18), as in claim 18, and the use of glass fibers having a diameter within the range of claim 3 (column 12, line 13). It is submitted that the glass fibers of Nomura et al. meet the physical property limitations of claims 2 and 5, given that those fibers meet the composition (i. e. glass), length and diameter limitations of the claims. Nomura et al. also teach or suggest the use of blowing agents, as in claims 19-28, in the disclosure at column 15, lines 1-39.

6.The declaration under 37 CFR 1.132 filed April 22, 2004 is insufficient to overcome the rejection of claims 1-5 and 18-28 based upon Kohl as set forth in the last Office action because: (1) it is not commensurate in scope with some of the claims since it focuses on the use of polyvinyl chloride while claim 1, for example, is not limited to polyvinyl chloride, and (2) the declaration addresses desired strength, appearance and (resistance to) weathering while the claims are simply directed to a composition. The amendment filed April 22, 2004 was in and of itself sufficient to obviate the rejection based on the Kohl reference.

7.Applicants' arguments filed April 22, 2004 have been fully considered but they are not persuasive. Applicants' arguments are considered to be moot by the examiner based on the revised ground of rejection introduced in this Office action.

8.Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (571) 272-

1202. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Allan R. Kuhns
ALLAN R. KUHNS
PRIMARY EXAMINER AU 1732
7-9-04